

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	WC Docket No. 17-97
Call Authentication Trust Anchor)	

PETITION FOR PARTIAL RECONSIDERATION OF CTIA

Thomas C. Power
Senior Vice President, General Counsel

Scott K. Bergmann
Senior Vice President, Regulatory Affairs

Matthew Gerst
Vice President, Regulatory Affairs

Sarah K. Leggin
Director, Regulatory Affairs

CTIA
1400 16th Street, NW, Suite 600
Washington, DC 20036
202-736-3200
www.ctia.org

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TABLE OF CONTENTS

I. INTRODUCTION AND SUMMARY 1

II. THE FOREIGN PROVIDER PROHIBITION WILL CAUSE ISSUES WITH INTERNATIONAL ROAMING THAT WILL HARM AMERICAN MOBILE WIRELESS CONSUMERS IN THE UNITED STATES AND ABROAD. 3

III. THE COMMISSION’S OTHER EFFORTS ENABLE PROVIDERS TO PROTECT CONSUMERS FROM ILLEGAL AND UNWANTED ROBOCALLS FROM OVERSEAS..... 7

IV. RECONSIDERATION IS NECESSARY BECAUSE EVIDENCE OF THE FOREIGN PROVIDER PROHIBITION’S IMPACT ON AMERICAN WIRELESS CONSUMERS IS NOW AVAILABLE AND WAS NOT CONSIDERED IN THE RECORD..... 9

V. CONCLUSION 11

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CTIA,¹ pursuant to Section 1.429 of the Federal Communications Commission’s (“Commission” or “FCC”) rules,² respectfully submits this petition for partial reconsideration (“Petition”) of the Commission’s Call Authentication Trust Anchor Second Report and Order (“Order”) in the above-captioned proceeding.³

I. INTRODUCTION AND SUMMARY

CTIA and its member companies are dedicated partners in the Commission’s efforts to protect consumers from illegal and unwanted robocalls. CTIA’s member companies support the Commission’s actions to give voice providers more tools to protect consumers, including in the

¹ CTIA – The Wireless Association® (“CTIA”) (www.ctia.org) represents the U.S. wireless communications industry and the companies throughout the mobile ecosystem that enable Americans to lead a 21st century connected life. The association’s members include wireless carriers, device manufacturers, suppliers as well as apps and content companies. CTIA vigorously advocates at all levels of government for policies that foster continued wireless innovation and investment. The association also coordinates the industry’s voluntary best practices, hosts educational events that promote the wireless industry and co-produces the industry’s leading wireless tradeshow. CTIA was founded in 1984 and is based in Washington, D.C.

² 47 C.F.R. § 1.429.

³ *Call Authentication Trust Anchor*, Second Report and Order, WC Docket No. 17-97 (rel. Oct. 1, 2020) (“Order”); see *Call Authentication Trust Anchor*, 85 Fed. Reg. 73360 (Nov. 17, 2020) (to be codified at 47 C.F.R. pt. 64). Though there is some ambiguity in the *Order* about whether the provision at issue here requires approval by the Office of Management and Budget before it becomes effective, out of an abundance of caution, CTIA deems it prudent to file this Petition by December 17, 2020 to seek further consideration of the Foreign Provider Prohibition, which will help deliver important consumer protections.

Order, and they are hard at work implementing STIR/SHAKEN, deploying innovative call-blocking tools, and establishing robust robocall mitigation programs, among many other efforts domestically.⁴ Collectively, these efforts will provide a new level of protection for consumers from illegal and unwanted robocalls, while also safeguarding legitimate calls. The Commission has also focused on shutting down overseas originators of illegal and unwanted robocalls, and CTIA and its member companies support the Commission’s aggressive enforcement actions against bad actors and gateway providers facilitating illegal voice traffic and other actions to fight robocalls coming from providers abroad.

While the *Order* does important work to protect consumers from illegal and unwanted robocalls, one aspect of the *Order* merits reconsideration to permit further review: the provision that prohibits U.S. intermediate providers and terminating voice service providers from accepting any voice traffic directly from any foreign voice service provider that does not appear in the Commission’s yet-to-be established robocall mitigation database (the “Foreign Provider Prohibition” or “Prohibition”), reflected in new Section 64.6305(c). The Prohibition risks causing harmful consequences to mobile wireless consumers due to issues that would arise with the complex endeavor of international mobile wireless roaming, including on 3G networks. Impacts on legitimate international mobile wireless traffic should be considered further before the Commission makes the Prohibition effective to avoid these unintended harms.

Reconsideration of the Foreign Provider Prohibition on international mobile wireless traffic is necessary and appropriate to protect American mobile wireless consumers who travel or live outside of the United States, including military and other government personnel. Further, reconsideration on this narrow basis would not affect the Commission’s ability to take aggressive

⁴ See generally *Order*.

actions to protect Americans from illegal or unwanted international traffic, such as encouraging providers to block traffic from identified bad actors and to protect international gateways.

II. THE FOREIGN PROVIDER PROHIBITION WILL CAUSE ISSUES WITH INTERNATIONAL ROAMING THAT WILL HARM AMERICAN MOBILE WIRELESS CONSUMERS IN THE UNITED STATES AND ABROAD.

The Commission's *Order* "prohibit[s] intermediate providers and terminating voice service providers from accepting voice traffic directly from any voice service provider that does not appear in the database, including a foreign voice service provider that uses NANP resources that pertain to the United States to send voice traffic to residential or business subscribers in the United States."⁵ U.S. intermediate providers and terminating voice service providers will be subject to this Prohibition 90 days after the deadline for robocall mitigation program certifications that will be set forth in the Bureau's Public Notice establishing the robocall mitigation database and portal.⁶

CTIA supports the Commission's effort to secure cooperation in robocall mitigation from overseas voice service providers. The Commission is right to encourage foreign voice service providers to participate in the new robocall mitigation database, and to continue efforts to improve global call authentication. However, it is premature to immediately impose a strict prohibition on U.S. intermediate and terminating voice service providers from accepting *any* traffic from overseas voice service providers that have not certified in the database in order to do so, especially without further input on such a new process.

Call completion is a primary objective and consumer expectation in our connected, global telecommunications system, and is made possible for U.S. consumers when travelling or living

⁵ See *Order* ¶ 86.

⁶ *Id.*

abroad through international wireless roaming, including 3G wireless roaming. Wireless roaming is a complex endeavor, which is more complicated internationally, as U.S. mobile network operators have roaming agreements with hundreds of overseas network operators to enable U.S. consumers to remain connected no matter where they travel or move.⁷ There are over 750 global mobile network operators, and there is at least one foreign provider in each country that interconnects with U.S. providers.⁸ When a mobile wireless consumer abroad uses a U.S. phone number to call a consumer in the United States, that call may be routed from an originating foreign provider's network over long distance routes that involve multiple foreign mobile network operators often on the basis of least cost routing⁹ to reach a U.S. intermediate or terminating provider for delivery to the intended recipient.¹⁰ Under this framework, there are a

⁷ *How Roaming Works*, CTIA, <https://www.ctia.org/how-roaming-works> (last visited Dec. 16, 2020) (roaming requires “[d]ifferent network technologies and mobile devices need to work together to enable a seamless roaming experience”). See also GSM Association, *International Roaming Explained: Latin America*, at 2-3 (Aug. 2012), <https://www.gsma.com/latinamerica/wp-content/uploads/2012/08/GSMA-Mobile-roaming-web-English.pdf> (“When a mobile user is abroad and turns their mobile device on, the mobile device attempts to communicate with a visited mobile network. . . . If there is a roaming agreement between the home network and one of the mobile networks in the visited country, the call is routed by the visited network towards an international transit network. The international transit network carrier is responsible for the call delivery to the destination network. Once this is done, the destination network will connect the call.”).

⁸ See *Membership*, GSM Association, <https://www.gsma.com/membership/membership-types/> (last visited Dec. 16, 2020).

⁹ *Least Cost Routing Challenges*, TransNexus, <https://transnexus.com/whitepapers/lcr-challenges/> (last visited Dec. 16, 2020) (“Least Cost Routing, or LCR, is a process to find the most inexpensive way to route phone calls. It is the process of analyzing, selecting and directing the path of outbound and inbound communications traffic depending on which path delivers the best rates.”).

¹⁰ Just one example of a complex international wireless routing framework the Foreign Provider Prohibition would impact is subscribers roaming internationally on 3G Universal Mobile Telecommunications Service (“UMTS”) who make calls from outside of the United States even when those calls are anchored in the wireless provider’s U.S. network. Specifically, when a roaming call is originated on certain networks abroad, a U.S. subscriber’s home network may generate a routing number directing that call to the domestic mobile switching center in the United States for anchoring and then termination on the U.S. provider’s network. That call should be passed from the foreign provider’s

number of hand-offs for a call on its way back to a U.S. consumer, and any one of hundreds of foreign providers could be chosen as the final foreign provider in the call path that interconnects with a U.S. intermediate or terminating provider. If that final foreign provider fails to implement a robocall mitigation program and certify to such in the Commission’s database, *all* of that foreign provider’s traffic—including legitimate, legal traffic—would be prohibited from reaching the intended recipients under the Foreign Provider Prohibition. As a result, the Prohibition would risk significant call completion issues for wireless calls from hundreds of foreign providers’ networks, from any mobile wireless consumer using a U.S. phone number to make a call from abroad.

In addition, foreign service providers that interconnect with U.S. providers would likely fail to register in a timely manner with the robocall mitigation database.¹¹ There is no reason to believe that foreign voice service providers across the globe would or should be aware of complex new regulatory requirements on domestic providers within the United States. Indeed, the last time the Commission imposed regulations on U.S. providers regarding international roaming, the Commission allowed an implementation of up to five years to allow for education,

originating network to the U.S. intermediate provider for anchoring, but the call could be blocked by the U.S. intermediate provider under the Prohibition if that foreign provider was not registered.

¹¹ For example, USTelecom also noted that due to foreign providers’ likely delays in registering, immediate adoption of the Foreign Provider Prohibition would create a “substantial risk that U.S. citizens traveling abroad—including military, state department, and other government personnel – would be unable to complete calls to the United States.” *See Ex parte* letter from Joshua M. Bercu, USTelecom, to Marlene H. Dortch, FCC, WC Docket No. 17-97, at 5 (filed Sept. 18, 2020). CTIA members report that they receive inbound international traffic through direct interconnection arrangements with foreign carriers in countries at all levels of economic development throughout the world. These members believe that many of these foreign carriers may not have implemented robocall mitigation arrangements, may need significantly more time than approximately six months to devote the necessary resources to do so, and that U.S. providers therefore may be required to block inbound international traffic from a number of countries if the Prohibition remains as adopted.

outreach, and deployment abroad.¹² Given the impending effective date of the Prohibition, U.S. providers are working diligently to educate foreign counterparts about call authentication and registration obligations to send traffic to the United States.¹³ They are also still working on technical solutions to enable screening of traffic from unregistered foreign providers. However, it will be an exceptionally difficult task to ensure that all U.S. providers' foreign provider roaming partners provide the required certifications in the brief timeframe necessary to prevent blocking of calls from U.S. subscribers abroad to consumers in the United States.¹⁴

Application of the Foreign Provider Prohibition to U.S. providers would hinder call completion to and from a range of consumers, including people in the United States who expect to receive lawful calls from overseas, as well as Americans travelling overseas that hope to reach people back in the United States. It creates a substantial risk that U.S. citizens traveling or living abroad, as well as military and diplomatic personnel that are often deployed to remote and dangerous regions of the world, cannot complete calls back to the United States. Likewise, U.S. residents may not receive expected, wanted, and lawful calls from friends, relatives, and business

¹² The brevity of the approximately six month period within which foreign carriers are required to implement robocall mitigation measures to avoid the blocking of their U.S.-bound traffic stands in marked contrast to the implementation periods of up to five years allowed under the Commission's 1997 Order requiring U.S. carriers to negotiate benchmark settlement rates with foreign carriers in all countries. See *International Settlement Rates*, Report and Order, 12 FCC Rcd. 19,806, ¶ 165 & App'x C (1997). Under this 1997 Order, the shortest implementation period allowed for compliance was 12 months for agreements with foreign carriers in high-income countries, and five years for agreements with providers in lesser-developed countries.

¹³ In order to comply with the Prohibition, domestic voice service providers must also undertake significant preparation, including identifying the list of foreign providers who hand them traffic at the international gateway, notifying those providers of the new Prohibition, modifying interconnection contracts to reflect the prohibition on accepting traffic from non-registered providers, and developing procedures to implement blocking as required.

¹⁴ For example, the Commission should consider that many smaller international providers may not have the incentives to establish robocall mitigation programs. For these providers, the economic value they derive from roaming agreements may not justify the compliance costs required by the Prohibition, which may result in some locations with very few or even zero registered roaming partners, making roaming for U.S. subscribers of any provider unavailable.

associates overseas. As a result, reconsideration and further study of the Foreign Provider Prohibition are needed to prevent unintended harm to mobile wireless consumers and to give foreign providers time to develop robocall mitigation program implementation plans and register with the Commission.

The Foreign Provider Prohibition also raises other practical implementation questions that require further consideration. Importantly, the Foreign Provider Prohibition is distinct from the prohibition on accepting traffic from *domestic* providers that have not certified: while domestic providers are already subject to the certification regulation, foreign providers are not *required* by the Commission to certify, but their traffic will not be completed if they do not register.¹⁵ The Commission also has yet to determine many of the practical questions raised regarding implementation of the Prohibition, including the registration process, legal implications of registering for providers abroad, establishment and management of the database, compliance procedures, and other details.¹⁶ The Commission should seek comment on these and other questions before making the Prohibition effective.

III. THE COMMISSION'S OTHER EFFORTS ENABLE PROVIDERS TO PROTECT CONSUMERS FROM ILLEGAL AND UNWANTED ROBOCALLS FROM OVERSEAS.

CTIA and its member companies support the many other actions the Commission has taken to prevent illegal and unwanted robocalls from overseas. These include enforcement

¹⁵ *Order* ¶ 90, n.347 (“We note for the sake of clarity, however, that we do not require foreign voice service providers to file a certification; though intermediate providers and terminating voice service providers are prohibited from accepting traffic from foreign voice service providers who do not appear in the robocall mitigation database.” (emphasis in original)).

¹⁶ For example, the Commission should seek comment on whether the parent or every subsidiary voice service provider operating abroad must register in the database, what the implications are of registering and acknowledging FCC jurisdiction, what tax implications registration has, how often the database is updated, what safe harbors are in place for domestic intermediate and terminating providers that monitor the database, and other implementation issues.

actions against VoIP providers facilitating illegal voice traffic, encouraging providers to protect international gateways from robocalls, and adopting a safe harbor for blocking traffic from bad actors. These actions are targeted and less disruptive than the Foreign Provider Prohibition, and they have proven to be effective in protecting consumers and networks from bad actors and illegal traffic from overseas. The Commission should continue to focus on these and similar efforts while developing the record on the Foreign Provider Prohibition.

Given these efforts, reconsideration of the Foreign Provider Prohibition should not undermine the Commission's and mobile wireless providers' efforts to protect U.S. consumers from foreign-originated illegal and unwanted robocalls. One example of these efforts is the safe harbor, referenced above, that permits provider blocking of traffic from bad-actor voice service providers that continue to allow unwanted calls to traverse their networks. The framework already allows for U.S. providers to completely block all traffic from providers—including providers allowing illegal calls from overseas—where there is evidence of harm to consumers.¹⁷ The Commission should allow the ecosystem to utilize these new, targeted call-blocking safe harbor frameworks, which will protect consumers from illegal and unwanted robocalls from overseas, and preserve the integrity of the voice network by ensuring legitimate traffic is completed —while the Commission develops the record on the Foreign Provider Prohibition.

¹⁷ CTIA also encourages the Commission to adopt its proposed network-level blocking safe harbor that can further protect voice service providers who block calls that are highly likely to be illegal before they reach consumers, including illegal robocalls coming in from abroad. *See* Comments of CTIA, WC Docket No. 17-59, at 1-13 (filed Aug. 31, 2020); *see also Ex parte* letter from Sarah K. Leggin, CTIA, Steve Morris, NCTA, Patrick Halley, USTelecom, to Marlene H. Dortch, FCC, WC Docket No. 17-59 (filed Nov. 24, 2020).

IV. RECONSIDERATION IS NECESSARY BECAUSE EVIDENCE OF THE FOREIGN PROVIDER PROHIBITION'S IMPACT ON AMERICAN WIRELESS CONSUMERS IS NOW AVAILABLE AND WAS NOT CONSIDERED IN THE RECORD.

Where the Commission is presented with evidence of real-world harms from newly adopted rules, reconsideration is appropriate.¹⁸ It is not uncommon for the Commission to review petitions for reconsideration, particularly involving implementation challenges, and conclude that “it now appears that [a rule’s] approach is, at least for the present, unworkable.”¹⁹ So too here. CTIA has presented new, additional evidence of the unintended consequences the Prohibition would cause, as the Commission directed.²⁰ The Commission needs to more fully consider the adverse practical impacts of the Foreign Provider Prohibition on American mobile wireless consumers and networks, given the state of technology and overseas compliance, as pointed out by CTIA, USTelecom, and their members.²¹

¹⁸ See, e.g., *Review of Commission’s Rules and Policies Affecting the Conversion to Digital Television*, Memorandum Opinion and Order on Reconsideration, 16 FCC Rcd. 20594, ¶ 6 (2001) (granting partial reconsideration because some requirements adopted in a *Report and Order* “may be having the unintended consequence of hindering, rather than furthering, the DTV transition . . . imposing substantial burdens on broadcasters without sufficient countervailing public benefits, and may in fact be contributing to difficulties faced by a substantial number of stations in meeting their DTV construction deadlines.”); *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, Order on Reconsideration and Second Report and Order, 31 FCC Rcd. 5011, ¶ 139 (2016) (finding that petitioners presented sufficient evidence that a Commission rule requiring parties to meet an aggregate interference threshold was having harmful unintended consequences, justifying reconsideration).

¹⁹ *In the Matter of Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Sys.*, 12 FCC Rcd. 22665, 22679 (1997) (revising its rules when confronted with providers’ technical challenges in implementing a rule “directing wireless carriers to forward all 911 calls without any user validation from handsets which transmit a code identification was intended to achieve important public safety goals.”).

²⁰ See *Order* ¶ 94 (“Should voice service providers identify concrete evidence of technical problems or likely blocking of legitimate calls, we encourage them to provide us such information so that we can consider whether to make any modifications to this rule.”).

²¹ See *id.* (“USTelecom, along with CTIA, suggest that our action today could result in unforeseen technical issues, or the blocking of legitimate calls.”).

Reconsideration is also appropriate when the Commission has not had the benefit of a full record about the impacts on consumers and providers from implementation of the Foreign Provider Prohibition. In particular, the Commission has not sought comment on the impacts of the Prohibition on international wireless roaming despite those issues being raised in the record ahead of the adoption of the *Order*. Without such record evidence, the Commission lacks sufficient support to prohibit domestic intermediate and terminating providers from completing calls from foreign voice service providers that have not certified in the Commission’s new database. The rule thus fails to satisfy the Administrative Procedure Act (“APA”) and the Regulatory Flexibility Act (“RFA”).²² Accordingly, the Commission should reconsider the Foreign Provider Prohibition so that it can develop a record on expanding its STIR/SHAKEN and robocall mitigation framework to implicate domestic providers’ handling of traffic from foreign service providers.²³ Reconsideration will enable to Commission to address these deficiencies and develop a more reasonable approach to encourage international provider certification, without jeopardizing U.S. consumers and the U.S. voice network.

²² 5 U.S.C. §§ 601 *et seq.*

²³ The Commission should consider the effects of the Prohibition on smaller domestic providers who may be required to make adjustments to their interconnection agreements, roaming partnerships, blocking capabilities, and other network features in order to comply with the Prohibition. The Commission’s failure to provide adequate notice and develop a meaningful record may violate the Regulatory Flexibility Act (“RFA”). 5 U.S.C. §§ 601 *et seq.* The RFA requires agencies to “prepare and make available for public comment an initial regulatory flexibility analysis” describing “the impact of the proposed rule on small entities.” 5 U.S.C. § 603(a). Because the *Further Notice* contained only vague references to extraterritorial application, the Commission’s regulatory flexibility analysis failed to address the impact of the rule on small entities, as required. *See Call Authentication Trust Anchor; Implementation of TRACED Act Section 6(a) – Knowledge of Customers by Entities with Access to Numbering Resources*, First Report and Order, WC Docket No. 17-97 & 20-67, ¶ 131 & App’x D (rel. Mar. 31, 2020) (“*Further Notice*”); *see also Order* at App’x B (could not address these issues because they were not the subject of comment).

V. CONCLUSION

The Commission should reconsider and rescind the Foreign Provider Prohibition and further develop the record with respect to the impact on international wireless roaming and wireless consumers identified herein. Doing so is necessary and appropriate in light of the practical difficulties presented by the rule, and the harms it will inflict on American mobile wireless consumers in the United States and overseas, which have not been addressed by the Commission.

Respectfully submitted,

/s/ Sarah K. Leggin

Sarah K. Leggin
Director, Regulatory Affairs

Thomas C. Power
Senior Vice President, General Counsel

Scott K. Bergmann
Senior Vice President, Regulatory Affairs

Matthew Gerst
Vice President, Regulatory Affairs

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